

The following are one-page synopses of the Natural Resources Management Partnership Program which can be used to brief district commanders, congressional staff, employees and potential partners.

## Natural Resources Management Program

### Current Status

- USACE is the Nation's largest provider of outdoor recreation
- Operates more than 2,500 recreation areas at 456 projects (mostly lakes)
- Leases additional 1,800 sites to state or local park and recreation authorities or private interests
- Hosts about 375 million visits a year at its lakes and other areas
- Administers 11.7 million acres of land and water in 43 states
- Plays a vital role in natural resources management across its real estate inventory

### Issues

- Sustaining this mission is an increasingly resource-intensive task.
- average age of structures across the Corps now exceeds 45 years, and more than 30 percent of Corps facilities are more than 50 years old.
- Corps has identified a critical maintenance backlog of \$110 million for recreation facilities
- Visitation at Corps projects continues to increase and requires many adaptations of existing programs and facilities to accommodate an increasingly diverse customer base.
- The nationwide emphasis on environmental issues has also resulted in growth in the Corps natural resources management requirements.
- Despite this growth in programmatic requirements, O&M, General appropriation, which funds the recreation and natural resources management functions of the Corps, has remained essentially flat over the past decade, once adjusted for inflation.

### The Civil Works Strategic Plan (CWSP)

- recognizes these are critical issue for all Corps mission areas.
- Throughout CWSP, emphasis is placed on the need for increased efficiency and effectiveness, the need to leverage resources, and to improve partnerships
- Under Our Strategic Direction:
  - Page 5 - "Partnerships between federal and state governments and with Native American tribes, public/private collaborations, and innovations become essential to combining resources in order to mover forward in meeting key water resources challenges."
  - Page 11 - "Partnerships are critical to achieving this vision."
- Under Objectives and Strategies:
  - Page 21, "Overall, we aim to make progress by orienting our CW business programs toward strategic objectives and by improving or leveraging our authorities, policies, processes, and partnerships."

The NRM Program has embraced this reality and is committed to exploring fully the potential development of new public-private partnerships to leverage limited appropriated funds and human resources.

## **NR M Partnership Program**

### **Background**

- The term “public-private partnership” broadly describes any arrangement between a government agency and the private sector in which traditionally public activities are performed or managed by a private entity.
- A wide spectrum of arrangements from trust funds and innovative resource sharing and development projects to volunteers and cooperating associations are “partnerships.”
- 1991 - issued policy to enter into agreements with cooperating associations to aid operations related natural resources management, interpretive and visitor service activities.
- 1992 - obtained authority to accept contributions and to enter into challenge partnership agreements with non-federal public and private groups and individuals to participate in the operation and/or management of recreation facilities and natural resources
- These are not “partnering” authorities. They only allow the Corps to be on the “receiving” end and resulted in constructive criticism from stakeholders.
- Program has been hampered by inconsistent application and unnecessary bureaucratic processes, which confuse and discourage potential partners.

### **Issues**

- Identify partnership competencies and explore integrating partnership and collaboration skills into existing programmatic and administrative training.
- Provide consistent legal guidance on partnership related issues.
- Explore legislative authorities for broader delegations.
- Improve existing partnership success measurement systems.

## Existing NRM Partnering Authorities

**Contributions** – PL 102-580, WRDA 1992 (106 Stat. 4838, 33 (USC) 2328, Section 203).

- shall be accepted and used to provide for the operation and management of recreation facilities or the protection and restoration of natural resources at civil works water resource projects
- contributions include cash, funds, materials and services for:
  - the protection, improvement, restoration, rehabilitation, or interpretation of natural resources, environmental features, recreation areas and facilities, or cultural resources.
  - improvement of accessibility for disabled persons,
  - rehabilitate existing facilities,
  - improve wildlife habitat,
  - produce interpretive and water safety brochures, publications and videos,
  - plant native plants and trees,
  - support endangered species recovery plans
  - maintain trails
- All facilities and work accomplished become the property of the Corps.
- Note: Real estate cannot be accepted under this program.
- Recognition shall be encouraged as a way to express appreciation to contributors and acknowledge the public support that has been received.
- Contributions **are not** an augmentation of the budget.

## Existing NRM Partnering Authorities

### Volunteers: PL 98-63.

- the Corps may accept the services of volunteers and provide for their incidental expenses to carry out any activity of the Corps except policy making or law/regulatory enforcement
- Voluntary service is official government business
- Corps elements shall utilize volunteers wherever it is feasible, cost-effective, mutually-beneficial, and safe
- Individuals from the private sector or other agencies, whose employers donate their services to the Corps while still keeping them on their payroll (hosted workers), can be volunteers
- Off-duty Corps personnel and their families can be volunteers
- Legal aliens may be volunteers.
- Children under the age of eighteen years may be volunteers provided they have the written consent of their parent or guardian.
- Commanders may enter into agreements with Federal Bureau of Prisons and state correctional systems concerning the use of civilian prison labor.
- Individuals convicted of federal and state crimes and participating in court-approved probation, work release, or alternate sentencing programs may serve as volunteers
- no person who has been convicted of any violent crime, crime against person, or crime involving the use of a weapon shall be utilized as a volunteer
- Volunteers receive the same benefits and protection as federal employees under the Federal Employees Compensation Act (5 USC, Chapter 81) and the Tort Claims Act (28 USC, 2671-2680) and are considered to be federal employees for only those purposes.
- Volunteers may be reimbursed for actual out-of-pocket expenses they incur in performing voluntary service
- Volunteers may also be provided campsites at civil works projects where their voluntary service occurs and not be required to pay a user fee.

## **Existing NRM Partnering Authorities**

### **Cooperating Associations:**

Aid the Corps through a variety of activities which may include the following:

- Accomplish such broad goals as natural resources management, interpretation and visitor service activities.
- Support special events, interpretive, educational or scientific activities, exhibits, and programs, including presentations and demonstrations which further public understanding and appreciation of the mission of the Corps, and/or a particular water resources development project.
- Support natural resources management and/or public programs at or near Corps projects through conservation and educational activities and special events; and also by providing scientific, logistical, maintenance and other support.
- Acquire display materials, historical objects, equipment, supplies, materials, goods, or other items, or services appropriate for management, operation, interpretive, educational and visitor service functions.
- Provide services to visitors through the sale, production, publication, and/or distribution of appropriate interpretive and educational items, such as publications, maps, visual aids, audio tapes, pamphlets, handicrafts, and other objects directly related to the recreation, scientific, interpretive, and educational goals and mission of a project, a group of projects, and/or the Corps as a whole.
- Act as a principal distribution medium for those educational and scientific publications of the government and trade which relate to the Corps and/or project mission, mandate, or management efforts and provide the public with inexpensive and technically accurate materials.
- Corps personnel, during the course of their normal work, may assist associations by performing nominal duties, including sales.

## Existing NRM Partnering Authorities

### **Challenge Partnerships:** (previously called Challenge Cost Sharing) Section 225, WRDA 1992

- Provide opportunities for non-federal public and private groups and individuals to contribute to and participate in the operation and/or management of recreation facilities and natural resources at water resource development projects.
- Provides a way to stretch the Corps budget by sharing the cost of operating and/or managing recreation facilities and natural resources.
- Agreements for recreation facilities may be entered into when they supplement Corps programs without increasing future operation and maintenance (O&M) costs or result in reduced future O&M costs, or, if future O&M costs will be increased, when it is a sound business decision (e.g., any increase in O&M costs will be offset by future revenue increases).
- Used for the identification, protection, improvement, rehabilitation, preservation, management, or interpretation of natural resources, environmental features, recreation areas and facilities, or cultural resources.
- Partner may contribute funds (including cash), materials, personal property, equipment or services as their portion of the challenge partnership agreement.
- Corps may contribute to work accomplished by the partner. These contributed resources will be combined with regular project resources as a supplement to accomplish the work designated in the agreement.
- Real estate cannot be accepted as a partner's share of a challenge partnership agreement.
- Work selected for these agreements shall be within current authorities and contained in the annual or five-year plan in the approved operational management plan (OMP).
- Work will generally be accomplished during one fiscal year.

## Partnership Advisory Committee

The Chief of the Natural Resources Management (NRM) Community of Practice, Operations Division, has appointed a permanent committee to expand the role of non-federal entities in serving the public. Under the direction of the Senior Policy Advisor for Partnerships and in coordination with NRM leadership teams, this committee supports the integration of the partnership culture into all NRM business lines (recreation, environmental stewardship and environmental compliance) to support efforts to:

- Collaborate with others to develop sustainable solutions, using the Environmental Operating Principles as its guide.
- Build our capacity for partnerships and collaboration by focusing outward and understanding the environment in which we work. We will learn about our customers' visions, goals and priorities to help us anticipate their needs as well as ours.
- Form, strengthen and foster relationships in the joint and interagency environment to accomplish our missions better. Actively collaborate more effectively with our customers and stakeholders with a clear focus on external views and requirements.
- Assist managers in finding solutions to partnership barriers by providing important support services such as legal consultation, general guidance, referrals, mentoring, training and research.
- Will utilize the NRM Gateway website to inform and educate the Corps and the public concerning all aspects of the NRM Partnership Program.
- To leverage our resources, the Partnership Advisory Committee has examined the authorities of our sister agencies to see what is needed to properly foster the true, two-way partnerships.

Division representatives on the committee are:

LRD	Mark Wilmes
MVD	Richard Otto
NAD	Cori Brown
NWD	Greg Miller
SAD	Mike Hosey
SPD	Chris Gallagher
SWD	Jeff Boutwell

## **Review and Recommendations on NRM Partnering Authorities**

### **Background**

- While there is desire and need to develop partners, the current program does not provide sufficient authority and flexibility to create effective partnerships.
- Lack of authority and policy development has lead project managers and partners to stretch authorities and use cumbersome processes that often hinder, rather than assist the development of partnerships.
- Project mangers and stakeholders alike are frustrated with these processes and with the uncertain and inconsistent interpretations of the authorities.
- Well-defined authorities that establish consistent legal interpretations and result in a streamlined process and expedited policy interpretation are needed.
- The Corps lacks many authorities already available to other federal natural resources agencies.
- Lack of organizational support and clear policy guidance is consistently identified as the primary impediment to working with others.

The Partnership Advisory Committee's conclusions from its research follows.

### **Issues and Recommendations:**

#### **1. Allow the Corps to advance a percentage of funds or other resources to a partner to promote broader participation in challenge partnerships.**

**Issue:** Up-front financing requirement in the Challenge Partnership regulation limits participation by others that have accounting rules which require receipt of products before making payment. This limits partners' ability to use grants where participants are reimbursed for expenditures. Currently, Corps must receive 100% funding before starting work. This is not realistic in many cases and not required in project cooperation agreements (PCAs).

**Needed change:** Require up-front money for Corps contract obligations only. It is not necessary to receive 100% of partner funding for a multiyear agreement as long as funds are received before they are obligated. When a non-federal source of grant funds has been approved for use by the Corps or a partner, the Corps should be able to obligate funds based on approved grant, regardless of when funds are received.

#### **2. Expand challenge partnership authority to include leased lands.**

**Issue:** Current authority is limited to land operated at 100% federal expense. Corps lessees are often our most logical and best partner. Recreation leases do not permit the government to expend funds on leaseholds but fish and wildlife licenses do. Some interpret this authority to limit Corps participation in interpretive outreach partnerships.

**Needed change:** New authority that expands partnerships with leaseholds. Lessees may have been excluded because of potential conflicts with Public Law 89-72. New authority will expand our capability for joint operation, maintenance and cooperative management. Both the National Park Service and Bureau of Land Management have authority to enter into “cooperative management agreements” with state and local parks systems. This is where a unit of one agency is located adjacent to or near a state or local park area, and cooperative management between the two of a portion of either’s park will allow for more effective and efficient management.

### **3. Broaden authority to provide assistance to, and to cooperate with, federal, state and public and private agencies and organizations for mission related purposes.**

**Issue:** Need clarification of congressional intent about the Corps entering into partnerships where the principle purpose of the relationship is to the mutually significant benefit of the Corps and the other party(ies). Existing authorities address the acceptance of donations and in-kind services but do not give authority to enter into assistance agreements.

**Needed change:** New authority that includes provisions for the Corps to enter into grants and cooperative agreements for the benefit of the Corps environmental stewardship and recreation programs. This would explicitly extend the ability to provide assistance to outside entities using appropriated funds. The authority would also authorize the cooperative production of educational and interpretive program materials, which is severely limited by the insistence that funds be donated to the Corps for all cooperative ventures. In some cases it is more cost effective for the Corps to transfer funds to a partner. This is especially critical where multiple partners are involved.

### **4. Permit and prescribe conditions for expending funds outside (but directly related to) fee owned lands.**

**Issue:** Expenditure of appropriated O&M funds is currently limited to land owned in fee title except in very limited cases.

**Needed change:** Seek authority to expend funds beyond Corps boundaries under the condition that it would directly benefit the Corps environmental and/or recreation programs.

### **5. Real estate lease and license templates do not allow for cooperative operations or management opportunities.**

**Issue:** Inflexibility of real estate documents to conduct joint operation in partnership with other organizations. Some instances occur where partners wish to assume part of the long-term maintenance responsibility, but may not have the capability to assume all responsibility. Real estate regulations require an out-grant, but do not offer the flexibility to adequately define joint operations. Standard template clauses cannot be changed or deleted without HQ approval and special conditions may conflict with standard conditions.

**Needed change:** Wave the requirement for a lease or license in these situations and use a memorandum of agreement, or change real estate regulations to allow greater flexibility in the standard template.

## **Enhancing Partnering Legislative Initiative**

A “partnering enhancement act” would improve the U.S. Army Corps of Engineers’ ability to work with a wide variety of stakeholders by expanding, clarifying and simplifying legal authority to enter into mutual benefit agreements. It would:

1. Demonstrate USACE commitment to cooperative conservation.
2. Make the Corps easier to work with.
3. Provide legal clarity and less red tape from consolidated authority.
4. Make permanent crucial and fundamental “mutual benefit” type agreements.
5. Enhance watershed resources through cooperative projects.
6. Allow joint facilities and publications for interpretation and education.
7. Allow funds to be advanced to partners.
8. Provide for long term partnerships through permanent authority.
9. Benefit constituents in any congressional district.

Partnerships build positive relationships, leverage funds and services, and enable landscape scale management of natural resources.

The Corps existing authorities are scattered in various pieces of legislation, are sometimes unclear, and sometimes limit our ability to work with others. They are a complex patchwork that has resulted in inconsistent interpretation and time-consuming processes. Legislation of this nature would give Congress an opportunity to provide clarification and update authorities to reflect new kinds of cooperative conservation relationships in the 21<sup>st</sup> century.